

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

NORMAN J. LANGE, JR.,	:	NO. 1:09-CV-00821
	:	
Plaintiff,	:	
	:	
vs.	:	OPINION AND ORDER
	:	
ENTERPRISE RENT-A-CAR COMPANY	:	
A.K.A. ENTERPRISE RENT-A-CAR,	:	
L.L.C.,	:	
	:	
Defendant.	:	

This matter is before the Court on the Magistrate Judge's February 1, 2010 Report and Recommendation (doc. 7), to which Plaintiff has filed no objection.

The Magistrate Judge reported the background of this case as follows. Plaintiff filed this pro se action on November 9, 2009, alleging age discrimination in violation of the Age Discrimination in Employment Act ("ADEA")(doc. 7). Defendant filed a motion to dismiss which Plaintiff failed to respond(Id.). On December 30, 2009 the Court issued an Order directing Plaintiff to show cause why the motion should not be construed as unopposed and granted (Id.). The Court ordered Plaintiff to respond to the show cause Order by January 15, 2010, but he has failed to do so (Id.).

As the Plaintiff has failed to respond to the Court Order to show cause, the Magistrate Judge concluded this action warrants dismissal for lack of prosecution and for failure to

comply with an order of the court (doc.7, citing Link v. Wabash R.R., 370 U.S. 626, 630-31 (1962)). The Magistrate Judge further found dismissal was warranted as Plaintiff's ADEA claims are time-barred because Plaintiff failed to file the lawsuit within the 90 day period after he was presumed to have received the right-to-sue ("RTS") notice (Id.). The Plaintiff's case also fails on the merits for failure to plead specific facts that shows Defendant had any knowledge of his age. Without allegations of such knowledge, Plaintiff's complaint fails to plead grounds by which Defendant could discriminate. (doc. 7, citing Gross v. FBL Fin. Servs., Inc., 129 S.Ct. 2343, 2350 (2009)). Accordingly, the Magistrate Judge recommended that the Defendant's motion to dismiss be granted and this case be closed (Id.).

Having reviewed this matter, the Court finds the Magistrate Judge's Report and Recommendation well-reasoned and correct. Clearly, Plaintiff's claims are time-barred, fail on the merits for failure to plead specific facts, and Plaintiff failed to respond to the order of the court. Accordingly, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation (doc. 7), DISMISSES Plaintiff's Complaint and DIRECTS the clerk to close this case on the Court's docket.

SO ORDERED.

Date: June 9, 2010

s/S. Arthur Spiegel
S. Arthur Spiegel
United States District Senior Judge